

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

The agency identified below in box 1 provides notice of proposed rule change pursuant to *Utah Code* Sections 63-46a-4. Please address questions regarding information on this notice to the agency. The full text of all rule filings is published in the *Utah State Bulletin* unless excluded because of space constraints. The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
Utah Admin. Code ref. (R no.):	R156-46a	Time filed:	
Changed to Admin. Code Ref. (R no.):			

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
	Mailing address 2:			
	City, state, zip:	Salt Lake City UT 84114-6741		
	Contact person(s):			
	Name:	Phone:	Fax:	E-mail:
	Clyde Ormond	801-530-6254	801-530-6511	cormond@utah.gov

(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)

2.	Title of rule or section (catchline):
	Hearing Instrument Specialist Licensing Act Rules
3.	Type of notice:
	New ____; Amendment XX; Repeal ____; Repeal and Reenact ____
4.	Purpose of the rule or reason for the change:
	The Division and the Hearing Instrument Specialist Licensing Board are proposing amendments to the rule to clarify the requirements for the supervision of a hearing instrument intern and to state that a violation of the supervision requirements is considered unprofessional conduct for a licensed hearing instrument specialist.
5.	This change is a response to comments from the Administrative Rules Review Committee.
	Yes ____; No XX
6.	Summary of the rule change:
	Throughout the rule, statute citations are corrected where necessary. Added Section 302d with respect to hearing instrument intern supervision requirements and added to Section 502a that failing to comply with the requirements of Section 302d is considered unprofessional conduct for a licensed hearing instrument specialist.
7.	Aggregate anticipated cost or savings to:
	A) State budget:
	The Division will incur minimal costs of approximately \$75 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

	B) Local government: Proposed amendments do not apply to local governments; therefore, no costs or savings are anticipated. Proposed amendments only apply to licensees and potential licensees as either a hearing instrument specialist or hearing instrument intern.																				
	C) Other persons: The Division anticipates no costs or savings to the public as a result of the proposed amendments since the proposed amendments are only a clarification of hearing instrument specialist internship supervision requirements and do not add any additional requirements that would affect the public. The proposed amendments will apply to licensed hearing instrument specialists who supervise licensed hearing instrument interns. However, the Division does not anticipate any costs or savings as a result of clarifying the supervision requirements in the rule beyond those costs currently in place when a licensed hearing instrument specialist supervises a licensed hearing instrument intern. However, if a licensed hearing instrument specialist violates the proposed supervision requirements, he could possibly be subject to disciplinary action against his license. The Division is unable to determine if or how many licensed hearing instrument specialists may violate the intern supervision requirements.																				
8.	Compliance costs for affected persons ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization or any character other than an agency): The Division anticipates no costs or savings to the public as a result of the proposed amendments since the proposed amendments are only a clarification of hearing instrument specialist internship supervision requirements and do not add any additional requirements that would affect the public. The proposed amendments will apply to licensed hearing instrument specialists who supervise licensed hearing instrument interns. However, the Division does not anticipate any costs or savings as a result of clarifying the supervision requirements in the rule beyond those costs currently in place when a licensed hearing instrument specialist supervises a licensed hearing instrument intern. However, if a licensed hearing instrument specialist violates the proposed supervision requirements, he could possibly be subject to disciplinary action against his license. The Division is unable to determine if or how many licensed hearing instrument specialists may violate the intern supervision requirements.																				
9.	Comments by the department head on the fiscal impact the rule may have on businesses: This rule filing codifies standards for intern supervisors and defines the violation of these standards as unprofessional conduct. No fiscal impact to businesses is anticipated. Francine A. Giani, Executive Director																				
10.	This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required): Subsections 58-1-106(1)(a) and 58-1-202(1)(a); Sections 58-46a-101 and 58-46a-304																				
11.	This rule adds, updates, or otherwise changes the following titles of materials incorporated by references (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank): 																				
12.	The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the <i>Utah State Bulletin</i> . See Section 63-46a-5 and Rule R15-1 for more information.) <table border="1" style="width: 100%;"> <tr> <td colspan="2">A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):</td> <td>07/03/2006</td> </tr> <tr> <td colspan="3">B) A public hearing (optional) will be held:</td> </tr> <tr> <td>on (mm/dd/yyyy):</td> <td>at (time):</td> <td>At (place):</td> </tr> <tr> <td>06/21/2006</td> <td>10:00 am</td> <td>160 East 300 South - Conference Room 4A (4th floor) - Salt Lake City, Utah</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>			A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):		07/03/2006	B) A public hearing (optional) will be held:			on (mm/dd/yyyy):	at (time):	At (place):	06/21/2006	10:00 am	160 East 300 South - Conference Room 4A (4th floor) - Salt Lake City, Utah						
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13.	This rule change may become effective on (mm/dd/yyyy):		07/11/2006
NOTE: The date above is the date on which this rule MAY become effective. It is <i>NOT</i> the effective date. After the date designated in Box 12(A) above, the agency <i>must</i> submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.			
14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "NASA") or proper nouns (e.g., "Medicaid")):		
	licensing	hearing aids	
	hearing instrument specialist	hearing instrument intern	
15.	Attach an RTF document containing the text of this rule change (filename):		R156-46a.pro
To the agency: Information requested on this form is required by Sections 63-46a-4, 5, 6, and 10. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.			
AGENCY AUTHORIZATION			
Agency head or designee, and title:		J. Craig Jackson, Director	Date (mm/dd/yyyy): 05/15/2006

ProposedRule.doc 9/26/2003

R156. Commerce, Occupational and Professional Licensing.
R156-46a. Hearing Instrument Specialist Licensing Act Rules.
R156-46a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 46a, as used in Title 58, Chapters 1 and 46a or these rules:

- (1) "Analog" means a continuous variable physical signal.
- (2) "Digital" means using or involving numerical digits, expressed in a scale of notation to represent discreetly all variables occurring.
- (3) "Programmable" means the electronic technology in the hearing instrument can be modified independently.
- (4) "Unprofessional conduct," as defined in Title 58 Chapters 1 and 46a, is further defined, in accordance with Subsection 58-1-203([5]1)(e), in Section R156-46a-502.

R156-46a-103. Authority - Purpose.

These rules are adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58 Chapter 46a.

R156-46a-302a. Qualifications for Licensure - Hearing Instrument Specialist Certification Requirement.

In accordance with Subsections 58-1-203(2) and 58-1-301(3), an applicant shall submit a notarized copy of his current certificate documenting National Board for Certification in Hearing Instrument Sciences (NBC-HIS) to satisfy the certification requirement for licensure as a hearing instrument specialist in Subsection 58-46a-302(1)(e).

R156-46a-302d. Qualifications for Licensure - Internship Supervision Requirements.

In accordance with Subsections 58-46a-102(7) and 58-1-203(1)(b), the requirements for supervision of a hearing

instrument intern are defined and clarified as follows. The hearing instrument intern supervisor shall:

(1) not have been disciplined for any unprofessional or unlawful conduct within five years of the start of any internship program;

(2) supervise no more than one hearing instrument intern on direct supervision;

(3) supervise no more than two hearing instrument interns at one time;

(4) not begin an internship program until:

(a) the hearing instrument intern is properly licensed as a hearing instrument intern; and

(b) the supervisor is approved by the Division in collaboration with the Board;

(5) keep a daily record on forms available from the Division, during the direct supervision period, which shall include the hours of instruction, the duties assigned, the total hours worked each week and the type of services performed;

(6) make available to the Division, upon request, upon completion of direct supervision and upon completion of the internship, the intern's training records;

(7) notify the Division immediately when the intern has completed direct supervision on forms available from the Division; and

(8) notify the Division within ten working days if the internship program is terminated.

R156-46a-502a. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) violating any state or federal law applicable to persons practicing as a hearing instrument specialist or hearing instrument intern;

(2) failure to perform the minimum components of an evaluation for a hearing aid as set forth in Section R156-46a-502b;

(3) aiding or abetting any person other than a Utah licensed hearing instrument specialist, a licensed hearing instrument intern, a licensed audiologist, or a licensed physician to perform a hearing aid examination;

(4) dispensing a hearing aid without the purchaser having:

(a) received a medical evaluation by a licensed physician within the preceding six months prior to the purchase of a hearing aid; or

(b) a document signed by the purchaser being a fully informed adult waiving the medical evaluation in accordance with Food and Drug Administration (FDA) required disclosures, except a person under the age of 18 years may not waive the medical evaluation;

(5) using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or other representation, however disseminated or published, which is misleading, deceiving, or untruthful;

(6) quoting prices of competitive hearing instruments or devices without disclosing that they are not the current prices or to show, demonstrate, or represent competitive models as being current when such is not the fact;

(7) using the word digital in any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or other representation when the hearing instrument circuit is less than 100% digital, unless the word digital is accompanied by the word analog, as in "digitally programmable analog hearing aid";

(8) failure to perform a prepurchase hearing evaluation;[
ex]

(9) supervising more than two hearing instrument interns at one time; and

(10) failing as a hearing instrument intern supervisor to comply with any of the requirements of Section R156-46a-302d.

**KEY: licensing, hearing aids, hearing instrument specialist,
hearing instrument intern**

**Date of Enactment or Last Substantive Amendment: [~~March 18,~~
~~2003~~]2006**

Notice of Continuation: June 24, 2004

**Authorizing, and Implemented or Interpreted Law: 58-1-106(1) (a);
58-1-202(1) (a); 58-46a-101; 58-46a-304**